

II. REMARKS

1. Claims 1-52 remain in the application.

2. Applicant respectfully submits that the present claims, if allowed, would not improperly extend the right to exclude granted in US 6,693,915 ("the '915 patent").

2.1 The present application and the '915 patent disclose unrelated subject matter.

The present application is directed to implementing a multimedia messaging service between a wireless terminal and a server. A multimedia message addressed to the wireless terminal is stored at the server. Information on at least one property of the wireless terminal is also stored at the server. A determination is made based on the stored information if there is any component of the message which the wireless terminal can handle. If there is any such component, the component is transmitted to the wireless terminal

The '915 patent is directed to attaining more effective utilization of radio resources, and to producing a more disturbance-free data transmission system. The '915 patent discloses allocating data from a number of connections to particular time slots in a way that utilizes resources efficiently and minimizes interference. One of two allocation strategies is selected at a given time. To select the strategy, the channel is examined to determine if there is other traffic on the channel. If other traffic is detected, it is determined which allocation strategy is being used for the detected traffic, and a different allocation strategy is selected for the connection to be set up. However, if traffic is not detected,

it is possible to select the allocation strategy freely. In the first allocation strategy, the allocation of the time slots in the data field is initiated from the first starting point of the data field, and in the second allocation strategy the allocation of the time slots in the data field is initiated from the second starting point of the data field.

It is clear that the present application and the '915 patent are directed to different inventions. The '915 patent relates to a more effective utilization of radio resources. The teachings of the '915 patent are only related to the manner by which the limited resources of the radio channel can be optimally divided between several wireless terminals. The present invention is directed to transmitting a component of a message addressed to a terminal to that terminal if the terminal has the capability to handle the component.

Thus, the problem, or limiting "bottle neck" in '915 is in the wireless connection itself (see the previous Office Action dated February 2, 2004 and the responding Amendment dated June 21, 2004), whereas in the current application the situation to be improved relates to the (possibly) limited capabilities of the terminal to handle different kind of multimedia components. This requires completely different type of measures to be applied.

In the '915' patent, the selection of allocation strategies is based on the present connection. There is nothing related to performing any operations based on the properties of the terminal itself.

2.2 The claims of the present application and the '915 patent recite different subject matter.

In the claims of the present application, the capabilities of a terminal are examined and a component of a message addressed to the terminal is sent to the terminal based on the terminal's ability to handle the component. In contrast, the claims of the '915 patent are directed to examining a communication channel, and selecting a strategy for allocating data among time frames of the channel based on the channel traffic.

Claim 1 of the '915 patent does not include any feature indicating directly or indirectly that any properties of the wireless terminal (in the sense that said property would provide information on the capabilities of the terminal to handle certain components of a multimedia message) is used for the selection of the traffic channel. Furthermore, the '915 patent does not teach that the traffic would be examined in such a way that the aforementioned properties of the terminal would affect the selection of the traffic channel, and does not teach any selection of only certain components to be transmitted further to the terminal.

2.3 In the present Office Action, the justification for the double patenting rejection is stated on page 4, lines 7-12:

It was clearly that the patent '915 discloses a wireless/radio system examines the traffic, when a traffic is detected then a connection is examined and selected [see abstract]. In order to transmit and receive the multimedia data, the wireless terminal examines the control field, data field, address (i.e.: the properties or the wireless nodes) and other information for the connection set up. Thus, the Double Patent rejection is appropriate.

Applicant respectfully submits that this argument is misplaced. The control field, data field, and other information for the connection set up are characteristics of the frames used by the communication channel, the access points, the quality of service, the connection type, and of the communication channel itself, and are not the properties of a wireless terminal. Furthermore, the fact by itself that the '915 patent discloses determining channel characteristics, or assuming for arguments sake, characteristics of a wireless terminal, does not justify a conclusion that the present application and the '915 patent disclose and claim the same subject matter.

The Applicant also notes that the '915 patent and the present application have completely different inventors.

At least for these reasons, Applicant respectfully traverses the double patenting rejection.

3. Applicants respectfully submit that claims 1-52 are patentable over the combination of Aquilon et al. (US 6,738,800, "Aquilon") in view of Kovacs et al. (US 6,542,819, "Kovacs").

Applicant respectfully submits that neither Aquilon nor Kovacs are valid references.

The present application claims priority from Finnish Patent Application 19992401, filed 5 November 1999, and Finnish Patent Application 19992775, filed 23 December 1999.


The latest priority date of 23 December 1999 precedes the 27 June 2000 filing date of Aquilon and precedes the 13 April 2000 PCT filing date of Kovacs.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of \$110.00 is enclosed for a one (1) month extension of time.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


Joseph V. Gamberdell, Jr.
Reg. No. 44,695

6 December 2004
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Date: 12/6/2004

Signature: Marg Miner

Person Making Deposit